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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,308	04/12/2000	Jeff Wasilko	2585-003	6174

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EXAMINER

BOUTAH, ALINA A

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 03/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/548,308

Applicant(s)

WASILKO, JEFF

Examiner

Alina N Boutah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-9, 14-17 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 10-13, 18, 22-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Specification

The word "caching" in the title is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 26 recites the limitation "the group" in line 8 page 28. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,951,636 issued to Zerber in view of USPN 5,278,984 issued to Batchelor.

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Regarding claims 1 and 14, Zerber teaches a method of moderating traffic load on network servers in a network where electronic mail is retained from at least one mail server, the method comprising:

permitting a mail request for a mail client to pass through a proxy server to the mail server (Abstract; figures 1 and 2).

Zerber fails to teach delaying subsequent mail requests for the mail client at the proxy server until a predetermined condition has been satisfied.

Batchelor teaches queuing and delaying mail requests at a server until a predetermined condition has been satisfied (Abstract; col. 1, lines 27-28; lines 56-66; col. 2, lines 4-6; 58-61).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teaching of Zerber with the teaching of Batchelor by delaying mail request until a predetermined condition has been satisfied in order to prioritize messages so that the sequence of execution and access to resource can be determined, therefore providing optimum performance to the system (col. 1, lines 27-33).

Regarding claims 2 and 15, Zerber fails to teach the method of claim 1, wherein the predetermined condition is a predetermined period of time. Batchelor teaches the predetermined condition being a predetermined period of time (title; col. 1, lines 26-28; col. 2, lines 45-49). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to employ a predetermine period of time in order to delay mail request in order to order to prioritize messages so that the sequence of execution and access to resource can be determined, therefore providing optimum performance to the system (col. 1, lines 27-33).

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Claims 3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,951,636 issued to Zerber in view of USPN 5,987,504 issued to Toga.

Regarding claims 3 and 16, Zerber fails to teach the method of claim 2 wherein the predetermined period of time is dynamically determined based on the amount of traffic load on the network. Toga teaches retrieving data at a future time when network traffic is lower (Abstract; col. 2, line 61- col. 3, line 10). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to enable the predetermined period of time based on a the amount of traffic load because it would be more economical to send mail the client when usage is lower and bandwidth is higher (col. 3, lines 15-23).

Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,951,636 issued to Zerber in view of USPN 5,278,984 issued to Batchelor in further view of USPN 5,765,033 issued to Miloslavsky.

Regarding claims 4 and 17, Zerber and Batchelor fail to teach the method of claim 2, wherein the predetermined period of time is dynamically determined based on past behavior of the mail client. Miloslavsky teaches storing a history of activities in electronic routing system (Abstract; col. 2, lines 23-26). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to determine the predetermined period of time based on past behavior of the mail client in order to facilitate that the proxy server in making a decision on sending a mail request to the client (col. 2, lines 26-27).

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Claim 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,951,636 issued to Zerber in view of USPN 5,278,984 issued to Batchelor in further view of USPN 5,956,521 issued to Wang.

Regarding claims 7 and 19, Zerber fails to teach the method of claim 1, wherein the predetermined condition is a combination of a predetermined time period and receipt of a notification from the mail server that mail has been received for the mail client at the mail server. Batchelor teaches the predetermined condition being a combination of a predetermined time period (title; col. 1, lines 26-28; col. 2, lines 45-49).

Zerber and Batchelor fail to teach the predetermined condition being a receipt of a notification from the mail server for the mail client at the mail server. Wang teaches a server receiving a mail message and notifies the message to a mail client (Abstract; col. 2, lines 32-43). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teaching of Batchelor and Wang into the teaching of Zerber by having the mail server notify the mail client of its receipt of mail in order let the user know that there is mail waiting for him or her so that will allow him/her to check the mail.

Claims 8, 9, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zerber in view of Batchelor in view of Wang in further view of Miloslavsky.

Regarding claims 8 and 20, Zerber, Batchelor, and Wang fail to teach the method of claim 7, wherein the predetermined period of time is dynamically determined based on the amount of traffic load on the network. Miloslavsky teaches storing a history of activities in

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electronic routing system (Abstract; col. 2, lines 23-26). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to determine the predetermined period of time based on past behavior of the mail client in order to facilitate that the proxy server in making a decision on sending a mail request to the client (col. 2, lines 26-27).

Regarding claim 9 and 21, Zerber, Batchelor, and Wang fail to teach the method of claim 7, wherein the predetermined period of time is dynamically determined based on past behavior of the mail client. Regarding claim 4, Zerber and Batchelor fail to teach the method of claim 2, wherein the predetermined period of time is dynamically determined based on past behavior of the mail client. Miloslavsky teaches storing a history of activities in electronic routing system (Abstract; col. 2, lines 23-26). At the time the invention was made, it would have been obvious to one of ordinary skill in the art to determine the predetermined period of time based on past behavior of the mail client in order to facilitate that the proxy server in making a decision on sending a mail request to the client (col. 2, lines 26-27).

Claim Objections

Claims 5, 6, 10-13, 18, 22-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 5, 10, 18, and 22: none of the prior art of record teaches, discloses nor suggests the method of moderating traffic load on network servers in a network further

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comprising: transmitting a message to the mail client providing information that the mail client's mail requests will be delayed as a result of the mail client's past behavior.

Claim 6 depends on claim 5, therefore would be allowable if rewritten in independent form including all the limitations of claim 5 and the base claim.

Regarding claims 11 and 25: none of the prior art of record teaches the method of moderating traffic load on network servers, wherein delaying subsequent mail requests includes attenuating transmission of the subsequent mail requests.

Regarding claims 12 and 23: none of the prior art of record teaches the method of moderating traffic load, wherein delaying subsequent mail requests is suspended in the event it is determined that a user is manually initiating rapidly repeated mail request.

Regarding claims 13 and 24: none of the prior art of record teach the method moderating traffic load, wherein delaying subsequent mail requests is achieved by inserting multiple delays that are inserted at different points in a mail protocol.

Allowable Subject Matter

Claim 26 is allowed.

The following is a statement of reasons for the indication of allowable subject matter:

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The closest prior art of record (USPN 5,951,636 issued to Zerber) teaches permitting a mail request for a mail client to pass through a proxy server to the mail server (Abstract; figures 1 and 2). The combination of Zerber with USPN 5,278,984 issued Batchelor teaches the predetermined condition being a predetermined period of time (title; col. 1, lines 26-28; col. 2, lines 45-49). The combination of Zerber, Batchelor and USPN 5,765,033 issued to Miloslavsky teaches dynamically determining the predetermined condition based on past behavior of the mail client (Abstract; col. 2, lines 23-26).

However, none of the prior art of record teaches a method of moderating traffic load on network servers in a network where electronic mail is retained for retrieval from at least one mail server, the method comprising: applying remedial handling of subsequent mail requests for the mail client at the proxy server until a predetermined condition has been satisfied, the remedial handling being selected from the group consisting of: delaying and attenuating; and transmitting a message to the mail client proving information that the mail client's mail request will be delayed as a result of the mail client's past behavior.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. USPN 5,828,904 issued to Batson et al.
2. USPN 5,968,117 issued to Schuetze, Robert Charles
3. USPN 5,513,126 issued to Harkins et al.
4. JPN 07-143163 issued to Hashimoto et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alina N Boutah whose telephone number is (703) 305-5104. The examiner can normally be reached on Monday-Friday (8:30 am-5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (703) 308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-9112 for regular communications and (703) 305-3718 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

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March 10, 2003


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SUPERVISORY PATENT EXAMINER
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